



CITY OF MORGAN HILL

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PLANNING COMMISSION MINUTES

REGULAR MEETING

JUNE 13, 2000

PRESENT: Kennett, McMahon, Mueller, Pinion, Ridner, Sullivan

ABSENT: Lyle

LATE: NONE

STAFF: Community Development Director (CDD) Bischoff, Planning Manager(PM) Rowe, Associate Engineer (AE) Creer, and Office Assistant II Dieter

REGULAR MEETING

Chairman Pinion called the meeting to order at 7:00 p.m.

DECLARATION - POSTING OF AGENDA

Office Assistant II Dieter certified that this meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

PUBLIC COMMENTS

Chairman Pinion opened the meeting to public comments.
There being no comments, Chairman Pinion closed the public comments.

MINUTES

MAY 23, 2000

COMMISSIONERS MUELLER/RIDNER MOTIONED TO APPROVE THE MAY 23, 2000 MEETING MINUTES. THE MOTION CARRIED ON A VOTE OF 5-0, WITH PINION ABSTAINING, AND LYLE ABSENT, WITH THE FOLLOWING AMENDMENTS:

- 1) Page 2 paragraph 4, corrected to read ...CIP ~~does not~~ sufficiently
- 2) Page 2 paragraph 4 , corrected to read....sufficiently ~~address~~ **addresses**

- 3) Page 2, paragraph 6 the vote should be corrected to read, 5-1-1
- 4) Page 4, paragraph 4, corrected to read...1) Changes to V35, 4A and 2) modify page 50, 4A
- 5) Page 5, paragraph 1, last sentence, should be corrected to read ... to a time line that ~~the Doans and us~~ **he and the Doan's**
- 6) Page 6, paragraph 8, should be corrected to read.....any progress. ~~It is noted that a~~ **Has a**
- 7) Page 8, paragraph 11, should be corrected to read...small project **allocations**
- 8) Page 9, paragraph 1, should be corrected to read.....that ~~we are~~ **the Planning Commission is** authorized
- 9) Page 9, paragraph 6, the word ~~country~~ should be corrected to read **county**
- 10) Page 7, paragraphs 1 & 2, should be corrected to read..~~Madison~~ **Matteson**

OTHER BUSINESS:

1) DISCUSSION OF ISSUES WITH THE MHUSD REGARDING THE EIR FOR THE PROPOSED HIGH SCHOOL SITES.

Bonnie Branco presented additional information to the Planning Commission regarding the EIR being prepared on the alternate high school site (Tennant/Murphy). She asked for questions, comments and priorities from the Commission and stated that the School District will come back at a later meeting to address their concerns.

PM Rowe presented the staff report.

Commissioner Sullivan stated her issues with the last EIR, and requested that the following issues be addressed: 1) Traffic study for Coyote Valley Research Park; 2) Cancellation of the Williamson Act; 3) Cost and timing as an issue, knowing full well that San Jose will litigate on Sobrato Site. Commissioner Sullivan feels that the cost of litigation should be included in the EIR. Commissioner Kennett wanted the EIR to address spraying of pesticides on the agricultural land adjacent to Sobrato Site. Commissioners Ridner/McMahon noted that they wanted to see the data in the form of a weighted matrix, as they felt that the comparisons could be made equally with that sort of information. Commissioner Ridner also noted that fiscal analysis would be his highest priority. Commissioner Mueller noted that MHUSD needs to make the assumption that the urban reserve in San Jose may start developing, and that this could have a significant impact on student enrollment. Commissioner Mueller wanted the district to tell us what their ideal site looks like from an educational stand point, and that he also hopes that in the fall the District and the Commission can have a workshop. Chairman Pinion expressed concern that the original criteria was never used to pick a site, and that the Hill/Tennant site was never considered.

NEW BUSINESS

2)UPA-95-01: W. THIRD- GTE MOBILNET:

A request to amend the conditional use permit for a cellular telephone transceiving site on property owned by the City of Morgan Hill. The proposal would consist of removing three (3) 20-ft tall antenna poles, to be replaced by a single, 40-ft tall slimline monopole. The antennas to be attached would be flush mounted panels,

measuring one foot by eight. The new monopole would be located approximately 30 ft. south of the existing water tank located on Nob Hill, between West Third St. and West Fifth St. at Del Monte Ave. in the RE-100,000 zoning district.

PM Rowe presented the staff report and Staff's recommendation for approval.

Commission discussion ensued.

Commissioner McMahon questioned whether the pole was being replaced with a taller one because of the tree canopy. PM Rowe advised that the 40 ft. pole will be above the canopy so that there is an unobstructed line of site to the pole. He said that the landscaping is in reference to the equipment building. He stated that staff was not asking that selective pruning be part of this request, and added that issue will be looked under an administrative process. Commissioner Sullivan wondered if any neighbors in the area had expressed concern. Chairman Pinion requested staff to look at the 38 ft. pole mentioned in the original application, as it has conduit protruding out of it and the electrical meter is missing. He also stated that if the pole is not being used any longer maybe the applicant could get rid of the pole on the site for the increase in height. PM Rowe made note to ask for removal of the old pole(38 ft pole) if it is no longer in use.

Chairman Pinion opened the meeting for public comment.

Ron James, Mathews Land Company representing GTE Wireless, stated that he agreed with Staff. He also stated that capacity would be increased so that they could handle more traffic.

Chairman Pinion closed the public hearing.

COMMISSIONERS MUELLER/SULLIVAN MOTIONED TO APPROVE RESOLUTION NO. 00-37, WITH MODIFICATION TO EXHIBIT "A" TO INCLUDE DIRECTION TO EVALUATE POSSIBLE REMOVAL OF EXISTING POWER POLE AS PART OF PERMIT PROCESS, AS WELL AS FEASIBILITY OF SHARED USAGE OF NEW ANTENNA POLE. THE MOTION CARRIED. 6-0, WITH LYLE ABSENT.

**3) VAR-00-02
COCHRANE-
THARALDSON:**

The applicant is requesting approval of a variance from the 30 ft. setback required along the periphery of properties located in a Planned Unit Development zoning district. The variance is requested along the eastern property line adjacent to Residence Inn and along the western property adjacent to the entrance to the car wash associated with the Chevron gas station. PM Rowe presented staff report, and Staff recommendation for the Commission to approve 15 ft. variance from the required 30 ft. along the freeway and by minute action approve the 10 ft. encroachment to the exception in the PUD ordinance.

Chairman Pinion stated that to grant a variance you need to find that a situation is unique and cannot be handled through change in the ordinance, and that it may be possible to add flexibility in the ordinance to give Staff administrative authority. PM Rowe stated that

PUD uses and standards in ordinance changes would amend that section, and the intent was to broaden the exception that would be allowed for encroaching into the 30 ft. setbacks. Therefore, with language as proposed to satisfy this situation, the Commission would need to still vote for a variance. Chairman Pinion noted that with a slight word change in Agenda Item 8, ZA-98-11, the Commission would no longer need a variance. PM Rowe commented that timing for consideration of that approach is good; however, he offered a word of caution in that once that is done, it applies to every PUD application in the City.

Chairman Pinion opened the meeting to public comments.

Kenneth Schell, project manager for Tharaldson Development, requested the Commission to consider their request under the original proposal under Agenda Item 3.

Chairman Pinion closed the public comments.

COMMISSIONERS MUELLER/MCMAHON MOTIONED TO APPROVE RESOLUTION NO. 00-39. THE MOTION CARRIED 6-0, WITH LYLE ABSENT.

SECOND MOTION

Commissioner Mueller requested a second motion from Staff recommendation to find by minute action that this particular site in use could be considered the same as service exception in the current ordinance. Chairman Pinion advised that he feels they are asking that the Commission find that it is a service drive, which it is not, but that it is an exit to a car wash. PM Rowe summarized that the Commission is being asked to provide direction so that this can come back to them on June 27th in the form of an ordinance. PM Rowe advised that if the Commission takes no action on this second item, the PUD ordinance would require a 30 ft area of landscaping next to the drive aisle. Then later this evening when the Commission gives direction for the ordinance to include exceptions other than service drive aisle, to that extent those items can be brought back for final adoption and forwarded to the Council for recommendation. Commissioner Mueller indicated that works unless the Commission write in that the Planning Commission has to review exceptions to the 30 ft. setback for certain kinds of uses. PM Rowe cautioned against this finding, stating that the exception may become the rule.

Commissioner Kennett stated that she would prefer to do minute action, as she does not want to weaken PUD with exceptions. Chairman Pinion stated that his concern is that the law is followed regarding what a variance is or is not. Commissioner Mueller noted that he still does not think findings for the variance could be made.

COMMISSIONER MUELLER AND CHAIRMAN PINION MOTIONED TO APPROVE RESOLUTION NO. 00-39 WITH AMENDMENT TO ALLOW A 10 FT. ENCROACHMENT INTO THE 30 FT. LANDSCAPE AREA, PURSUANT TO THE EXCEPTION AS PROVIDED AS AMENDED, OR UNDER THE, PUD ORDINANCE. THE MOTION CARRIED ON A 4-1-1-1 VOTE, AS FOLLOWS:

**AYES: KENNETT, MUELLER, MCMAHON, RIDNER; NOES: SULLIVAN;
ABSTAINED: PINION; ABSENT: LYLE.**

**4)AP-00-03/
SR-97-40:
E. DUNNE-
B.H. PACIFIC**

A request to appeal the conditions of approval of the site, architectural and landscape plans for a 14,976 sq. ft. drug store building and a 6,500 sq. ft. retail building to be located on the north west corner of the intersection of Walnut Grove Dr. in the PUD zoning district. PM Rowe presented the staff report, and Staff's recommendation for adoption of Resolution No. 00-38.

Chairman Pinion opened the public comments.

Bruce Tichinin, attorney for applicant, addressed the Commission.

Greg Rocca, project applicant, spoke on responding to needs of Council and Commission. He stated that he feels that Staff's determination is incorrect, and stated that Walgreens goes away if they do not get the drive-thru issue resolved.

Chairman Pinion closed the Public Hearing.

AE Creer expressed concern about traffic conflict. He stated that he believes that the Walgreens alternative puts pedestrian and cars at risk. AE Creer further stated that he does not want to be staging traffic in this parking lot, as trucks need 26 ft. to turn around.

Farid Javandal, Traffic Engineer for Corve Engineering, spoke regarding the traffic study. Discussion ensued regarding the traffic conflicts with respect to the two lane drive-thru.

Commissioner Mueller asked what would be the City's preferred solution? AE Creer from stated that Alternative 3 would be preferred, because in this solution cars are not weaving through the parking lot, and that this solution has good on-site circulation.

PM Rowe advised that in conversations with applicant they were told that Walgreens could get immediate approval of their site plan with the stipulation that Walgreens reverse the flow on the drive-thru. PM Rowe stated that Staff wants a plan that works for the majority of citizens who patronize the shopping center. Discussion continued regarding solutions.

Commissioner Mueller stated if Walgreens thinks that the TV communication is a hindrance enough that they want to walk away, when it is less than 5% of business of the store, than so be it.

**COMMISSIONERS MUELLER/MCMAHON MOTIONED TO APPROVE
RESOLUTION NO. 00-38. THE VOTE WAS 3-3-1 AS FOLLOWS: AYES:
MUELLER, MCMAHON, PINION; NOES: KENNETT, RIDNER, SULLIVAN;
ABSENT: LYLE.**

PM Rowe advised that the 3-3 vote constitutes a non-action; therefore, it can be appealed to the City Council.

PM Rowe gave staff report on the issue of the lighting.

Chairman Pinion questioned whether height restrictions required modification to the PUD. PM Rowe advised that the Commission will have ability to act on the lighting issue with concern to halogen or low pressure sodium only. He further indicated that the appropriate action would be that a resolution be brought back before the Commission granting the appeal to allow for illumination other than low pressure sodium. Conversely, if that is the direction of the Commission, he feels that it should be discussed first at a Staff level. PM Rowe continued that he feels that this issue can be worked out with the applicant.

COMMISSIONERS MUELLER/SULLIVAN MOTIONED TO ADOPT THE STEPS AS STATED BY PM ROWE. THE MOTION CARRIED 6-0, WITH LYLE ABSENT.

**5)SD-00-09
DA-00-03: HALE-
GLENROCK
SHEA HOMES:**

A request for approval of a tentative map for an additional 22 lots to be included within a 66 acre project located on the south side of Tilton Ave. East of Hale Ave, and West of Monterey Rd. in the R-1 12,000 Residential Planned Development zoning district.

PM Rowe presented the staff report.

Chairman Pinion opened the public comments.

Chairman Pinion asked Mr. Garcia if he was in agreement with Staff? Mr. Garcia stated that he was.

The Public hearing was closed

COMMISSIONERS MUELLER/MCMAHON MOTIONED TO APPROVE RESOLUTION NO. 00-35. THE MOTION CARRIED 6-0, WITH LYLE ABSENT.

COMMISSIONERS MUELLER/ SULLIVAN MOTIONED TO APPROVE RESOLUTION NO. 00-36 AS MODIFIED, AND TO APPROVE THE NEGATIVE DECLARATION. THE MOTION CARRIED 6-0, WITH LYLE ABSENT.

**6) ELBA-00-07:
SAN PEDRO-
BARTON OF
REDLANDS:**

A request for a one-year extension of time on the residential building allotment for a 6-unit condominium development on a 0.52 acre parcel on the east side of Cory Dr., south of San Luis Way. The project is the final phase of a 37 unit residential development known as "Villanova." Staff report was presented by PM Rowe.

Chairman Pinion opened the meeting for public comments.

Chairman Pinion closed the meeting for public comments.

COMMISSIONERS MUELLER/KENNETT MOTIONED TO APPROVE RESOLUTION NO. 00-32. THE MOTION PASSED BY A VOTE OF 6-0, WITH LYLE ABSENT.

**7)ELBA-00-08:
E. MAIN-MAIN
ST. DEV./FMA
DEVELOPERS:**

A request for amendment to the Residential Development Agreement to allow a one-year extension of time on the residential building allotment for two single family homes. Also requested is an amendment to the Project Development Agreement to designate the two lots for future custom home development. The subject properties are lots 40 and 41 in the "Siena" residential development located at Grand Prix Way and Calle Siena in the R-1 (7,000) residential single-family zoning district. PM Rowe presented the staff report.

Chairman Pinion opened the meeting for public comments.

Applicant Rocke Garcia spoke in agreement with Staff.

Chairman Pinion closed the public hearing.

**COMMISSIONERS MUELLER/MCMAHON MOTIONED TO APPROVE
RESOLUTION NO. 00-33.. THE MOTION PASSED BY A VOTE OF 6-0, WITH
LYLE ABSENT.**

**8)ZA-98-11
CITY OF MH
PUD ZONING
FOR DUNNE
AND CONDIT:**

A City-initiated request to amend Chapter 18.30 of the Municipal Code as it defines allowable uses and standards for development of properties in the Planned Unit Development (PUD) zoning district. This request will also establish allowable uses and specific development standards for properties located in the PUD zoning districts located in the following areas:

- north side of E. Dunne Ave., bounded by Butterfield Blvd., Diana Ave. and the railroad tracks.
- north side of E. Dunne Ave., bounded by Highway 101 and Walnut Grove Dr., including its northeasterly extension.
- north side of E. Dunne Ave. between Murphy Ave. and Condit Rd.
- south side of E. Dunne Ave. between Murphy Ave. and Condit Rd.
- west side of Condit Rd., bounded by Highway 101, E. Dunne Ave. and Tennant Ave.

CDD Bischoff presented the staff report.

Chairman Pinion opened the meeting for public comments.

Mitchell Miller, attorney for C. B. Patel in Area 5, spoke on the Site Approval that was issued in 1998 for a hotel on Condit Avenue. Mr. Miller spoke on the police power in zoning issues. He stated that Spot Zoning is illegal, that there are 5 hotels in this area, and questioned why Mr. Patel's project was stopped? Mr. Miller felt that this was an arbitrary decision. Mr. Miller strongly requested that the City approve the building of his clients hotel in Area 5. Chairman Pinion questioned the speaker as to how many units would be in the hotel. Mr. Miller stated that the hotel would be between 47-55 units. Commissioner Mueller indicated that he believes that the law does allow cities under police action in zoning ordinance to allow "x" number of units in a city.

Anita Woodson, resident from Area 2, had questions regarding the extension of Walnut

Grove.

CDD Bischoff addressed Ms. Woodson's concerns about the streets and the zoning for residential and/or hotels in Area 2. CDD Bischoff mentioned there are currently no projects under review for this area.

Chairman Pinion closed the meeting to public comments..

Commissioner McMahon indicated that she needs written legal advise on Area 5 regarding Spot Zoning before she could vote on this matter. She asked what led the committee to decide it would be bad to have more hotels in that area. Chairman Pinion stated that he believed that another 55 units in Area 5 is not going to harm anything. He also stated that there may be some sort of Grand Father Clause to allow for these units. Chairman Pinion stated that if the Commission allowed for a designated number of rooms in Area 5 it would prevent over expansion of existing hotels and may allow for this additional hotel. The issue of Spot Zoning goes away with the above change. Commissioner McMahon questioned if limiting economic feasibility was outside our purview? CDD Bischoff stated that through police powers you can limit the over-concentration of use in any area. He continued that we are not talking about economic issues and prohibiting hotels or the impact they would have on the competition. Commissioner McMahon advised CDD Bischoff that the Commission would like to see rational reasons in the form of traffic and restaurant studies as to the reason the city should or should not have 6 hotels in this one area.

Chairman Pinion questioned the planting of canopy providing trees, and stated that there should be more detail to ensure that after the trees are planted they will be watered properly. He asked if the requirement for a 30 ft. landscaped area could be modified to allow for minor encroachments if properly mitigated. Chairman Pinion stated that he preferred not to stretch terminology to reach an objective, but would prefer that Staff has the latitude to allow for the encroachment. Commissioner Mueller warned of applicants using latitude to push the boundaries and felt that the Commission need to establish criteria for such encroachments.

COMMISSIONERS MUELLER/MCMAHON MOTIONED TO CONTINUE THIS ITEM TO THE JULY 11, 2000 MEETING. THE MOTION CARRIED ON A VOTE OF 6-0, WITH LYLE ABSENT.

ANNOUNCEMENTS: County Planning Commission is sponsoring a Inter-Regional Workshop on Growth, Housing and Transportation. The meeting is Thursday, June 15th , from 3-6 p.m.

ADJOURNMENT: There being no further business, Chairman Pinion adjourned the meeting at 11:30 p.m.

MINUTES RECORDED AND PREPARED BY:

PLANNING COMMISSION MINUTES

MAY 9, 2000

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PHYLLIS M. DIETER

Office Assistant II